

Health Employment Directive

No. 03/22

Effective Date:
7 September 2022

Supersedes:
n/a

COVID-19: Special pandemic leave in lieu of sick or carer's leave

1. Compliance

Compliance with this health employment directive (HED) is mandatory.

2. Purpose

The purpose of this HED is to outline the special pandemic leave arrangements for employees diagnosed as COVID-19 positive or required to provide care for immediate family or household members diagnosed as COVID-19 positive during the declared public health emergency in relation to coronavirus disease.

3. Legislative Provision

Section 51A of the *Hospital and Health Boards Act 2011* (the Act).

4. Application

This HED applies to health service employees in hospital and health services (HHSs) and the Department of Health engaged under the Act.

5. Related documents

- *Hospital and Health Boards Act 2011*
- *Public Health Act 2005*
- *Minister for Industrial Relations and Commission Chief Executive Directive 01/20: Employment arrangements in the event of a health pandemic*
- *Management of Diagnosed Cases of COVID-19 and Close Contacts Direction (No. 5), as amended from time to time*
- *Implementation Guideline – Directive 01/20 - Minister for Industrial Relations and Commission Chief Executive Directive 01/20: Employment arrangements in the event of a health pandemic*

Directive:

6. Special pandemic leave

On 29 January 2020, under the *Public Health Act 2005*, the Minister for Health and Ambulance Services made an order declaring a public health emergency in relation to coronavirus disease (COVID-19).

Special pandemic leave arrangements for employees impacted by the public health emergency are in accordance with the *Minister for Industrial Relations and Commission Chief Executive Directive 01/20: Employment arrangements in the event of a health pandemic* (Directive 01/20).



Directive 01/20 provides an entitlement to special pandemic leave once an employee has exhausted their sick leave accruals. However, this HED provides that where an absence on or after 13 December 2021 is due to a positive COVID-19 diagnosis, an employee does not have to exhaust their sick leave accruals before accessing special pandemic leave, provided the employee has not already exhausted the maximum special pandemic leave entitlement of 20 days.

6.1 Employees diagnosed as COVID-19 positive

A permanent or fixed-term temporary employee who has been diagnosed as COVID-19 positive and is unable to work, subject to providing satisfactory evidence to the relevant delegate, will be entitled to up to 20 days of paid special pandemic leave before accessing their available sick leave (refer section 6.5 Maximum entitlement).

Satisfactory evidence includes:

- an email, text message or other formal notification of the employee's positive COVID-19 polymerase chain reaction (PCR) test; or
- an email, text message or other formal notification, or other evidence, of the employee's positive rapid antigen test (RAT), or
- a self-declaration made by the employee.

This entitlement is effective from 13 December 2021.

This entitlement ends on the date the Minister for Health and Ambulance Services determines, in accordance with the *Public Health Act 2005*, that the declared public health emergency in relation to coronavirus disease has ended.

6.2 Providing care for immediate family or household member diagnosed as COVID-19 positive

A permanent or fixed-term temporary employee who is required to provide care for an immediate family or household member who has been diagnosed as COVID-19 positive, subject to providing satisfactory evidence to the relevant delegate, will be entitled to up to 20 days of paid special pandemic leave before accessing their available carer's leave (refer section 6.5 Maximum entitlement).

Satisfactory evidence includes

- an email, text message or other formal notification of the immediate family or household member's positive COVID-19 polymerase chain reaction (PCR) test; or
- an email, text message or other formal notification, or other evidence, of the immediate family or household member's positive rapid antigen test (RAT), or
- a self-declaration made by the employee.

This entitlement is effective from 13 December 2021.

This entitlement ends on the date the Minister for Health and Ambulance Services determines, in accordance with the *Public Health Act 2005*, that the declared public health emergency in relation to coronavirus disease has ended.

6.3 Special pandemic leave in other circumstances

Special pandemic leave provisions in all other circumstances are in accordance with the *Minister for Industrial Relations and Commission Chief Executive Directive 01/20: Employment arrangements in the event of a health pandemic*.

6.4 Transitional arrangements

An employee who has previously been granted sick leave in relation to their COVID-19 diagnosis on or after 13 December 2021 and is instead entitled to special pandemic leave in accordance with section 6.1 of this HED will be eligible to have the sick leave converted to available special pandemic leave.

An employee who has previously been granted carer's leave in relation to providing care for an immediate family or household member with a COVID-19 diagnosis and is instead entitled to special pandemic leave in accordance with section 6.2 of this HED will be eligible to have the carer's leave converted to available special pandemic leave.

6.5 Maximum entitlement

The total paid special pandemic leave provided under this HED and the *Minister for Industrial Relations and Commission Chief Executive Directive 01/20: Employment arrangements in the event of a health pandemic*, for the duration of the declared public health emergency in relation to coronavirus disease, must not exceed 20 days.

The maximum 20 days special pandemic leave is not convertible to an hourly entitlement. An employee will use one day of their special pandemic leave for each work engagement they would have normally worked, regardless of the length of their normal work/shift for that day. For example:

- if a part-time employee normally works four (4) hours, that constitutes one day of special pandemic leave; or
- if an employee normally works a 12 hour shift, that constitutes one day of special pandemic leave.

7. Definitions

Declared public health emergency in relation to coronavirus disease	The public health emergency declared in relation to coronavirus disease (COVID-19) by the Minister for Health and Ambulance Services on 29 January 2020 under the <i>Public Health Act 2005</i> .
Immediate family	Includes: <ul style="list-style-type: none"> • an employee's spouse including a former spouse* • a de facto spouse or former de facto spouse* • a child (including an adult child, an adopted child, a foster child, ex-foster child, a step-child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee. <p>* <i>including a spouse of the same sex as the employee</i></p>
Self-declaration made by the employee	A certification by the employee, as part of their application for special pandemic leave, that: <ul style="list-style-type: none"> • they have been diagnosed as COVID-19 positive; or • they are required to provide care for an immediate family or household member who has been diagnosed as COVID-19 positive.

8. History

HED No. 03/22 October 2022	Issued under section 51A of the <i>Hospital and Health Boards Act 2011</i> as a condition of employment for health service employees.
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9. Approval and implementation

Directive custodian

Chief Human Resources Officer

Approval by Chief Executive

Shaun Drummond
Director-General

Approval date: 20/10/2022

Applies to absences from 13 December 2021 to 31 October 2022